

Title 16. Respiratory Care Board Department of Consumer Affairs

NOTICE OF PROPOSED CHANGES

NOTICE IS HEREBY GIVEN that the Respiratory Care Board is proposing to take the action described in the Informative Digest. Any person interested may present statements or arguments orally or in writing relevant to the action proposed at a hearing to be held at the Respiratory Care Board of California at 444 North 3rd Street, Suite 270, in Sacramento, California at 9:00 a.m. on October 3, 2006. Written comments, including those sent by mail, facsimile, or e-mail to the addresses listed under Contact Person in this Notice, must be received by the Respiratory Care Board at its office not later than 5:00 p.m. on October 2, 2006, or must be received by the Board at the hearing. The Board, upon its own motion or at the instance of any interested party, may thereafter adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as contact person and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

AUTHORITY AND REFERENCE

Pursuant to the authority vested by section 3722 of the Business and Professions Code, and to implement, interpret or make specific section 3765 of said Code, the Respiratory Care Board is considering changes to Division 13.6 of Title 16 of the California Code of Regulations as provided under Informative Digest/Policy Statement Overview.

INFORMATIVE DIGEST / POLICY STATEMENT OVERVIEW

Existing law defines the practice of respiratory therapy, and prohibits its practice without a license issued by the Board, subject to certain exceptions. These exceptions are defined within Business and Professions Code section 3765. Senate Bill 1476 (Figueroa) is currently proposing an amendment to Business and Professions Code section 3765 to specify that a person employed by a home medical device retail facility or a licensed home health agency is not prohibited by the act from performing respiratory care or related services authorized by the Board.

This proposal would amend the definition of "employer" to include any company, corporation, partnership, health maintenance organization, or any other entity or person that employs or contracts with, one or more respiratory care practitioners or unlicensed personnel to provide respiratory care services as provided in the Act, and would define the terms, "Home Care Employer" and "Unlicensed Personnel." This proposal would also adopt a regulation to specify what services, and under what criteria, respiratory care services may be performed by unlicensed personnel in a home care setting.

FISCAL IMPACT ESTIMATES

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Cost/Savings in Federal Funding to the State: NONE

Nondiscretionary Costs/Savings to Local Agencies: NONE

Local Mandate: NONE

Cost to Any Local Agency or School District for Which Government Code Section 17561 Requires Reimbursement: NONE

Business Impact:

The Respiratory Care Board has made an initial determination that the proposed regulatory action would have no significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

Impact on Jobs/New Businesses:

The Respiratory Care Board has determined that this regulatory proposal will not have a significant impact on the creation of jobs or new businesses or the elimination of jobs or existing businesses or the expansion of businesses in the State of California.

Cost Impact on Private Persons or Entities:

The Respiratory Care Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Effect on Housing Costs: NONE

EFFECT ON SMALL BUSINESS

The Respiratory Care Board has determined that the proposed regulations would affect small businesses.

CONSIDERATION OF ALTERNATIVES

The Respiratory Care Board must determine that no reasonable alternative which is considered or that has otherwise been identified and brought to its attention would either be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposal described in the Notice.

Any interested person may present statements or arguments orally or in writing relevant to the above determinations at the above-mentioned hearing.

INITIAL STATEMENT OF REASONS AND INFORMATION

The Respiratory Care Board has prepared an initial statement of the reasons for the proposed action and has available all the information upon which the proposal is based.

TEXT OF PROPOSAL

Copies of the exact language of the proposed regulations and of the initial statement of reasons, and all of the information upon which the proposal is based, may be obtained at the hearing or prior to the hearing by accessing the Board's website at www.rcb.ca.gov or upon request from the Respiratory Care Board at 444 North 3rd Street, Suite 270, Sacramento, CA 95814.

AVAILABILITY AND LOCATION OF THE FINAL STATEMENT OF REASONS AND RULEMAKING FILE

All the information upon which the proposed regulations are based is contained in the rulemaking file which is available for public inspection by contacting the person named below.

You may obtain a copy of the final statement of reasons once it has been prepared, by making a written request to the contact person named below.

CONTACT PERSON

Inquiries or comments concerning the proposed administrative action may be addressed to:

Christine Molina, Staff Services Manager
Respiratory Care Board of California
444 North 3rd Street, Suite 270
Sacramento, CA 95814
(916) 323-9983
rcbinfo@dca.ca.gov

The backup contact person is:

Stephanie Nunez, Executive Officer
Respiratory Care Board of California
444 North 3rd Street, Suite 270
Sacramento, CA 95814
(916) 323-9983
rcbinfo@dca.ca.gov

Inquiries concerning the substance of the proposed regulations may be addressed to:

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